

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Dominique Diorio, Administratrix of Estate of Joseph Diorio

(b) County of Residence of First Listed Plaintiff Philadelphia County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Joseph S. Oxman, Esquire
111 S. Independence Mall E., Suite 740
Philadelphia, PA 19106 - (215) 665-9999

DEFENDANTS

Superintendent Laurel Harry, Deputy Superintendent Shawn Kephart,
Deputy Superintendent Barry Smith, Unknown Camp Hill State
Correctional Officers

County of Residence of First Listed Defendant Cumberland County
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|-----------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input checked="" type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C.A. Section 1983 - Civil Rights

Brief description of cause:
Civil Rights

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See Instructions):

JUDGE

DOCKET NUMBER

DATE

05/13/2016

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

DOMINIQUE DIORIO
(Administratrix of the Estate of Joseph Diorio)
2317 s. Croskey Street
Philadelphia, PA. 19145

Plaintiff,

vs.

SUPERINTENDENT LAUREL HARRY,
DEPUTY SUPERINTENDENT SHAWN KEPHART,
DEPUTY SUPERINTENDENT BARRY SMITH,

and

UNKNOWN CAMP HILL STATE
CORRECTIONAL OFFICERS

Defendants,

JURY TRIAL DEMANDED

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (x)

05/10/2016
Date

Joseph S. Oxman, Esquire
Attorney-at-law

Dominique Diorio, Administratrix, et al
Attorney for Plaintiff

(215) 665-9999
Telephone

(215) 569-8811
FAX Number

Oxmanj@ogklawyers.com
E-Mail Address

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 2317 S. Croskey Street, Philadelphia, Pennsylvania 19145

Address of Defendant: 2500 Lisburn Rd, Camp Hill, Pennsylvania 17011

Place of Accident, Incident or Transaction: Camp Hill State Correctional Facility

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☒ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify) _____

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases

(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Joseph S. Oxman, Esquire, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: 05/13/2016

Joseph S. Oxman
Attorney-at-Law

207956

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 05/13/2016

Joseph S. Oxman
Attorney-at-Law

207956

Attorney I.D.#

1. Plaintiff, Dominique Diorio, is an individual and a citizen of the Commonwealth of Pennsylvania residing at the above mentioned address. She was the wife of the decedent, Joseph Diorio, and was appointed administratrix of the estate of Joseph Diorio by the Philadelphia County Register of Wills on May 5, 2016. Hereinafter, plaintiff, Dominique Diorio, Administratrix, shall be referred to as “Administratrix”. Herein after the decedent, Joseph Diorio shall be referred to as “Diorio”.

2. Defendant, Superintendent Laurel Harry, is and was at all times relevant hereto, an employee of the State of Pennsylvania working as the Superintendent of SCI Camp Hill. Hereinafter, Defendant, Superintendent Laurel Harry shall be referred to as “Harry.”
3. Defendant, Deputy Superintendent Shawn Kephart, is and was at all times relevant hereto, an employee of the State of Pennsylvania working as a Deputy Superintendent of SCI Camp Hill. Hereinafter, Defendant, Shawn Kephart shall be referred to as “Kephart.”
4. Defendant, Superintendent Barry Smith, is and was at all times relevant hereto, an employee of the State of Pennsylvania working as a Deputy Superintendent of SCI Camp Hill. Hereinafter, Defendant, Barry Smith shall be referred to as “Smith.”
5. Defendants, Unknown Correctional Officers, are and were at all times relevant hereto, an employees of the State of Pennsylvania working as correctional officers at SCI Camp Hill. Hereinafter, referred to as “Officers”

JURISDICTION AND VENUE

6. The Court has jurisdiction over this lawsuit because the action arises under the Laws and Constitution of the United States, in particular the Eighth Amendment and 42 U.S.C.A. § 1983. Diorio, was deprived of his rights not to be subjected to cruel and unusual punishment and while being subjected to these violations he suffered and sustained severe injuries and death.
7. The Court has supplemental jurisdiction under 28 U.S.C § 1367 over plaintiff’s, claims arising under State law, including but not limited to violations of Diorio’s

State Constitutional rights against defendants for, conspiracy, cruel and unusual punishment, deliberate indifference and willful misconduct because these claims are so related to the claims within the Court's original jurisdiction that they form part of the same case or controversy under Article 3 of the United States Constitution.

8. Venue is proper in this Court pursuant to 28 U.S.C. § 1391, as the claims at issue arose in this judicial district.

GENERAL ALLEGATIONS AGAINST DEFENDANTS

9. The above paragraphs are repeated and incorporated herein by reference as if set forth in full.
10. On May 14, 2013, Diorio was an inmate at the State Correctional Institute, Camp Hill.
11. During his incarceration, Diorio believed that other inmates "labeled" him a "snitch" because of his relationship with his brother, Michael Diorio.
12. At some time prior to May 14, 2013, Michael Diorio was also an inmate in the Pennsylvania State Prison System.
13. While an inmate, Michael Diorio was a cell mate of Felix Summer who was serving time for murder.
14. Michael Diorio learned from Summer, that Summer was additionally involved in several other murders that were never investigated by police authorities.
15. At some point during his incarceration, Michael Diorio told prison officials about Summer's confession of additional murders.

16. Eventually, word of Michael Diorio's "snitching" with regard to his cellmate Felix Summer, became widely known among the State Prison system including inmates and correctional officers.
17. Because of Diorio's relationship to his brother Michael, Diorio became the target of numerous death threats by other inmates at Camp Hill State Prison.
18. Diorio told prison officials, including the above mentioned defendants, and other correctional officers, about the death threats against him but the defendants ignored his pleas to be moved into protective custody.
19. As a result of the Diorio's ignored pleas by the defendants, Diorio became extremely depressed and began to exhibit the behaviors of suicidal ideation which were additionally ignored by the defendants.
20. On May 14, 2014, Joseph Diorio either committed suicide or was murdered by inmates to which unknown correctional officers conspired amongst themselves, or with those inmates who committed the murder, to make Diorio's death appear to be suicide.

COUNT I

**PLAINTIFF, DOMINIQUE DIORIO ADMINISTRATRIX OF THE ESTATE OF
JOSEPH DIORIO vs. DEFENDANTS LAUREL HARRY, SHAWN KEPHART, BARRY
SMITH AND UNKNOWN CORRECTIONAL OFFICERS
DELIBERATE INDIFFERENCE TO THE NEED FOR PRECAUTIONS AGAINST
SUICIDE AND FAILURE TO PROVIDE INMATE PROTECTION UNDER THE 8TH
AMENDMENT**

21. The allegations contained previously are incorporated herein as though fully set forth at length.
22. At all times relevant hereto, Diorio was an inmate at SCI Camp Hill.
23. At all times relevant hereto Harry was the Superintendent of SCI Camp Hill.

24. While Diorio was an inmate at SCI Camp Hill, defendant Harry became aware of Diorio's pleas, told to numerous prison officials, about the death threats against him and his request to be moved into protective custody.
25. Although aware of the above mentioned threats, Harry was deliberately indifferent to Diorio's threatened status by failing to take action to initiate, in a timely and appropriate manner, Diorio's above mentioned requests for protective custody.
26. Additionally while being deliberately indifferent and ignoring the previously mentioned protective custody requests by Diorio, Harry allowed Diorio to be placed in the general prison population while being well aware that Diorio's protective and mental health status would likely deteriorate resulting in either the suicide or the murder of Diorio.
27. The conduct of Harry constitutes deliberate indifference to the protective and mental health needs of Diorio thus violating his civil rights and rights under the 8th Amendment resulting in the injuries, damages and death of Diorio. In addition to compensatory damages, Diorio requests punitive damages.
28. At all times relevant hereto Kephart was a Deputy Superintendent of SCI Camp Hill in charge of inmate Security.
29. While Diorio was an inmate at SCI Camp Hill, defendant Kephart became aware of Diorio's pleas told to numerous prison officials, about the death threats against him and his request to be moved into protective custody.
30. Although aware of the above mentioned threats, Kephart was deliberately indifferent to Diorio's threatened status action by failing to take action to initiate,

in a timely and appropriate manner, Diorio's above mentioned requests for protective custody.

31. Additionally while being deliberately indifferent and ignoring the previously mentioned protective custody requests by Diorio, Kephart allowed Diorio to be placed in the general prison population while being well aware that Diorio's protective and mental health status would likely deteriorate resulting in either the suicide or the murder of Diorio.
32. The conduct of Kephart constitutes deliberate indifference to the protective and mental health needs of Diorio thus violating his civil rights and rights under the 8th Amendment resulting in the injuries, damages and death of Diorio. In addition to compensatory damages, Diorio requests punitive damages.
33. At all times relevant hereto Smith was a Deputy Superintendent of SCI Camp Hill in charge of inmate Security.
34. While Diorio was an inmate at SCI Camp Hill, defendant Smith became aware of Diorio's pleas told to numerous prison officials, about the death threats against him and his request to be moved into protective custody.
35. Although aware of the above mentioned threats, Smith was deliberately indifferent to Diorio's threatened status action by failing to take action to initiate, in a timely and appropriate manner, Diorio's above mentioned requests for protective custody.
36. Additionally while being deliberately indifferent and ignoring the previously mentioned protective custody requests by Diorio, Smith allowed Diorio to be placed in the general prison population while being well aware that Diorio's

protective and mental health status would likely deteriorate resulting in either the suicide or the murder of Diorio.

37. The conduct of Smith constitutes deliberate indifference to the protective and mental health needs of Diorio thus violating his civil rights and rights under the 8th Amendment resulting in the injuries, damages and death of Diorio. In addition to compensatory damages, Diorio requests punitive damages.
38. At all times relevant hereto defendants “Officers” were correctional officers at SCI Camp Hill in charge of inmate Security.
39. While Diorio was an inmate at SCI Camp Hill, defendants “Officers” became aware of Diorio’s pleas told to numerous prison officials, about the death threats against him and his request to be moved into protective custody.
40. Although aware of the above mentioned threats, defendants “Officers” were deliberately indifferent to Diorio’s threatened status action by failing to take action to initiate, in a timely and appropriate manner, Diorio’s above mentioned requests for protective custody.
41. Additionally while being deliberately indifferent and ignoring the previously mentioned protective custody requests by Diorio, defendants “Officers” allowed Diorio to be placed in the general prison population while being well aware that Diorio’s protective and mental health status would likely deteriorate resulting in either the suicide or the murder of Diorio.
42. The conduct of defendants “Officers” constitutes deliberate indifference to the protective and mental health needs of Diorio thus violating his civil rights and

rights under the 8th Amendment resulting in the injuries, damages and death of Diorio. In addition to compensatory damages, Diorio requests punitive damages.

43.

COUNT II
PLAINTIFF, DOMINIQUE DIORIO ADMINISTRATRIX OF THE
ESTATE OF JOSEPH DIORIO vs. DEFENDANTS LAUREL HARRY,
SHAWN KEPHART AND BARRY SMITH
FAILURE TO TRAIN, SUPERVISE, DISCIPLINE AND INSTITUTE
POLICY AND PROCEDURE UNDER MONELL

44. The allegations contained previously are incorporated herein as though fully set forth at length.
45. At all times relevant hereto, Diorio was an inmate at SCI Camp Hill.
46. At all times relevant hereto, the above mentioned defendants were employed by the State of Pennsylvania as Superintendents thus being responsible for the training, supervision, and discipline of “Unknown Correctional Officers” of the Department of Corrections for the State of Pennsylvania at SCI Camp Hill.
47. Defendants Harry, Kephart and Smith as a matter of policy, practice and deliberate indifference, failed to institute any directives to protect Diorio, and other inmates, from death threats and or suicidal ideation.
48. Defendants Harry, Kephart and Smith as a matter of policy and practice failed to train, supervise, and/or discipline “Unknown Correctional Officers” who violated the rights of inmates including “Diorio” thus encouraging these “Unknown Correctional Officers” to engage in the unlawful and actionable conduct of being deliberately indifferent and willfully ignoring the suicidal ideation and or physical threats against Diorio thus leaving Diorio woefully unprotected in the prison and subject to death by murder or suicide.

49. Defendants Harry, Kephart and Smith were on actual notice of a need to institute a policy to train, supervise, and/or discipline “Unknown Correctional Officers” prior to the incident in question as a result to other similar incidents occurring in the past in which inmates were woefully unprotected from suicidal ideation or physical threats that resulted in bodily injury or death.
50. Defendants Harry, Kephart and Smith’s failure to train, supervise, and/or discipline caused the acts of deliberate indifference to the denial of Diorio’s right to protection from suicide and or murder under the 8th Amendment committed by the Unknown Correctional Officers and or other inmates resulting in injuries, pain and death to Diorio.

COUNT III
PLAINTIFF, DOMINIQUE DIORIO ADMINISTRATRIX OF THE ESTATE OF
JOSEPH DIORIO vs. DEFENDANTS LAUREL HARRY, SHAWN KEPHART, BARRY
SMITH AND UNKNOWN CORRECTIONAL OFFICERS
CONSPIRACY TO IGNORE AND “COVER UP” THE CONTINUED THREATS OF
INMATE PHYSICAL HARM TO DIORIO

51. The allegations contained previously are incorporated herein as though fully set forth at length.
52. Administratrix, Dominique Diorio, avers that she was the wife of Diorio, and was his wife on May 14, 2014.
53. The above mentioned defendants conspired to ignore the continued physical threats, by other inmates, to Diorio, by willfully and deliberately ignoring Diorio’s pleas for protective custody.
54. The above mentioned defendants conspired to ignore the continued physical threats, by other inmates, to Diorio, by willfully and deliberately falsifying the

circumstances of Diorio's death to make it look like Diorio committed suicide which ratified defendants' conspiracy.

55. The above defendants were recklessly indifferent to the fact that Diorio was under constant physical threat by other inmates at SCI Camp Hill and thus deliberately ignored or falsified the numerous written and oral pleas by Diorio for protective custody. The above mentioned defendants participated in a conspiracy which ratified a "cover-up" of the death of Diorio.

COUNT IV
PLAINTIFF, DOMINIQUE DIORIO ADMINISTRATRIX OF THE
ESTATE OF JOSEPH DIORIO, SANTO DIORIO AND GIUSEPPINA
DIORIO vs. DEFENDANTS LAUREL HARRY, SHAWN KEPHART,
BARRY SMITH AND UNKNOWN CORRECTIONAL OFFICERS
WRONFUL DEATH ACTION

56. The allegations contained previously are incorporated herein as though fully set forth at length.
57. Diorio, left surviving him the following person entitled to the recovery of damages for his death and on his behalf this action is brought, Santo Diorio, son, Giuseppina Diorio, a daughter and Dominique Diorio, wife.
58. By reason of the death of Diorio, the above mentioned individuals have suffered pecuniary loss.
59. Plaintiff, Dominique Diorio has additionally incurred funeral expenses.
60. Diorio did not bring an action for his personal injury during his lifetime and no other action on behalf of Diorio has been commenced against the defendants.
61. The plaintiff, Dominique Diorio, was duly appointed Administratrix of the Estate of Diorio on May 5, 2014 by the register of Wills of Philadelphia County and

brings this action by virtue of the ACT of 18 55 L.B. 309 as Amended in the Pennsylvania Rules of Civil Procedure, 2202(a).

COUNT V

**PLAINTIFF, DOMINIQUE DIORIO ADMINISTRATRIX OF THE
ESTATE OF JOSEPH DIORIO, SANTO DIORIO AND GIUSEPPINA
DIORIO vs. DEFENDANTS LAUREL HARRY, SHAWN KEPHART,
BARRY SMITH AND UNKNOWN CORRECTIONAL OFFICERS
SURVIVAL ACTION**

62. The allegations contained previously are incorporated herein as though fully set forth at length.
63. “Administratrix” also brings this action on behalf of the Estate of Joseph Diorio, deceased, under and by virtue of the Probate Estate and Fiduciary Code Pa.C.S. 3773.
64. “Administratrix” claims on behalf of the estate, the damages suffered by the estate by reason of the death of the decedent, Joseph Diorio, as well as for the pain and suffering that the decedent underwent prior to his death.
65. “Administratrix” requests compensatory and punitive damages against all defendants.

DAMAGES

66. The allegations contained previously are incorporated herein as though fully set forth at length.
67. As a result of the conduct previously alleged as to all defendants, Diorio, sustained severe personal injuries including but not limited to multiple bruises and contusions of the body, complex neck lacerations and death on May 24, 2014.
68. The Administratrix, makes claims under Wrongful Death and Survival Actions and requests compensatory and punitive damages as to all defendants.

ATTORNEY FEES

69. It was necessary for Plaintiff, Dominique Diorio, as Administratrix, to hire the under-signed attorney to file this lawsuit. Upon judgment, Plaintiff is entitled to an award of attorney fees and costs under 42 U.S.C. § 1988 (b).

PRAYER

70. The above paragraphs are repeated and incorporated herein by reference as if set forth in full.

DEMAND FOR JURY TRIAL

71. The Administratrix asserts her rights under the Seventh Amendment to the U.S. Constitution and demands, in accordance with the Federal Rule 38, a trial by jury on all issues.

WHEREFORE, Dominique Diorio, as Administratrix of the Estate of Joseph Diorio demands judgment against defendants individually, jointly and/or in the alternative for compensatory damages, punitive damages, attorney fees, interest and costs of suit in an amount in excess of \$150,000.00 and such relief as the Court may deem just and equitable.

Respectfully submitted;

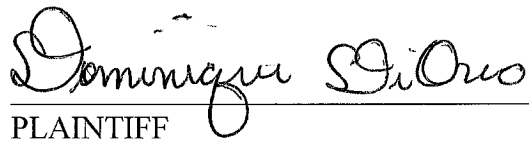
OXMAN/GOODSTADT KURITZ, P.C.



JOSEPH OXMAN, ESQUIRE
Attorney for Plaintiffs

VERIFICATION

The undersigned hereby verifies that the within document is based on first-hand information and on information furnished to counsel and obtained by him in the course of this lawsuit. The language of the document is that of counsel and not of the affiant. To the extent that the contents of the document are based on information furnished to counsel and obtained by him during the course of this lawsuit, affiant has relied upon counsel in taking this verification. All statements are founded upon reasonable belief. This verification is made subject to the penalties of 18 Pa.C.S. Section 4904, relating to unsworn falsification to authorities.


PLAINTIFF